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Via Facsimile

March 18, 2002

***Ex Parte***

The Honorable Michael K. Powell  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

RE: Application by Verizon-New Jersey Inc. for Authorization to Provide  
In-Region InterLATA Services in State of New Jersey; Docket No. 01-347

Dear Chairman Powell:

I am writing on behalf of the members of the New Jersey Cable Telecommunications Association (NJCTA), which has affiliated companies certified as competitive local exchange carriers (CLECs) in New Jersey. Our members offer the greatest promise for facilities-based local exchange competition in New Jersey, if the Federal Communications Commission adheres to the essential *quid pro quo* of the Telecommunications Act of 1996 and not allow Verizon NJ to enter the long distance market until such time as full compliance with Section 271 is demonstrated.

We are aware that you are currently deliberating Verizon NJ's request to obtain Section 271 approval to provide long distance service in New Jersey. We have indicated in comments filed earlier with the Commission that we believe that, notwithstanding the conditional favorable recommendation of the New Jersey Board of Public Utilities (BPU's), Verizon NJ has failed to demonstrate full compliance with all required 14-point checklist items. New information relevant to these proceedings submitted by Verizon NJ to the BPU last week relate specifically to the issue of Verizon NJ's intent to comply with the BPU's Unbundled Network Elements Order (UNE Rate Order) and support our contention that full compliance has not and cannot at this time be demonstrated.

Because Verizon's compliance with the New Jersey BPU's UNE Rate Order is critical to the Commission's decision of whether to grant Verizon's Section 271 request, we thought it important to share Verizon's March 12, 2002 letter to the BPU in which Verizon NJ clearly states that it cannot comply with one of the three conditions specified by the BPU in its UNE Rate Order, namely that "Verizon NJ has not determined whether it will 'challenge the Board's UNE rates in any court or before this Board,' but it cannot waive its right to do so." This was in direct response to the BPU's March 6, 2002 order in which it directed Verizon NJ to:

*Submit a verified statement no later than March 12, 2002 indicating whether Verizon NJ waives its rights to challenge the Board's UNE rates in any court or before this Board; and certifying that it will not charge rates greater than the UNE rates herein adopted; and affirmatively stating that it is currently charging these rates.*

The Commission should not ignore this flagrant disregard of an essential element of the BPU consultative report. As you will see from the enclosed letter submitted by NJCTA to the NJ BPU on March 13, 2002 we believe that Verizon has very clearly demonstrated its failure to comply with the UNE Rate Order and thus renders that document inoperative as to any favorable assessment of the subject checklist item. Under these circumstances, the BPU has not given unqualified support of Verizon's application. For that reason, the Commission should deny Verizon NJ's request for Section 271 approval and not take favorable action on a subsequent application until this matter is settled and Verizon NJ has complied in full with the BPU's order.

Respectfully submitted,

Karen D. Alexander  
President

Enclosures (2)  
March 12, 2002 Letter of Verizon NJ to NJ BPU  
March 13, 2002 Letter of NJCTA to NJ BPU

c: The Honorable Kathleen Q. Abernathy  
The Honorable Michael J. Copps  
The Honorable Kevin J. Martin  
Dorothy Attwood, Chief, Common Carrier Bureau  
NJCTA Board of Directors  
NJ Board of Public Utilities  
Service List via separate *ex parte* notification